

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

GISSELLE RUIZ, individually and on behalf of all others similarly situated,)	
)	
Plaintiff)	
)	
v.)	
)	Civil Action No. 05-11052 NMG
BALLY TOTAL FITNESS HOLDING CORPORATION, a Delaware corporation, and)	
HOLIDAY UNIVERSAL, INC., a Delaware corporation,)	
)	
Defendants.)	
)	

**ASSENTED-TO MOTION FOR LEAVE TO SUBMIT
REPLY MEMORANDUM IN SUPPORT OF
DEFENDANTS' MOTION TO STAY**

Defendants, Bally Total Fitness Holding Corporation and Holiday Universal, Inc., hereby request leave to submit a brief Reply Memorandum in Support of their Motion to Stay these proceedings pending the decision of the Massachusetts Supreme Judicial Court in *Albats v. Town Sport Int'l.*, SJC-09432. The purpose of the Reply Memorandum is to report to this Court on the September 7, 2005 oral argument of the *Albats* appeal to the Supreme Judicial Court and to respond to some of the arguments presented in Plaintiff's Response opposing the Motion to Stay. Plaintiff has assented to this Motion seeking leave to submit a Reply Memorandum. The proposed Reply Memorandum is submitted herewith.

WHEREFORE, the Court should allow Defendants to submit the Reply Memorandum submitted herewith and grant them such other and further relief as it deems appropriate.

Respectfully submitted,

BALLY TOTAL FITNESS HOLDING CORP.
and HOLIDAY UNIVERSAL, INC.,

By their attorneys,

/s/ Kathleen M. Genova

Howard M. Cooper (BBO #543842)
Kathleen M. Genova (BBO # 563359)
Todd & Weld LLP
28 State Street, 31st Floor
Boston, MA 02109
(617) 720-2626

Dated: September 12, 2005

LOCAL RULE 7.1 CERTIFICATION

Counsel for Defendants hereby certifies that she conferred by e-mail with counsel for the Plaintiff, John Roddy, on September 9 and 10, 2005, and that he advised that Plaintiff assents to this Motion.

/s/ Kathleen M. Genova

Kathleen M. Genova (BBO # 563359)